

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3490 of 1981

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SD PADVI

Versus

CHIEF CONSERVATOR OF FORESTS

Appearance:

MR DN PANDYA for Petitioner

None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/12/97

ORAL JUDGEMENT

Heard the learned counsel for the petitioner.

2. The names of respondents No.8 to 18 are ordered to be struck off from the record of this special civil application.

3. Challenge has been made by the petitioner to the order annexure 'A' dated 7-8-1981 under which the private respondents inclusive the respondents aforesaid whose

names are ordered to be struck off were given the promotion on the post of Range Forest Officer.

4. The petitioner's grievance is that though he is senior to those persons he has been superseded. The petitioner will not get all the 15 posts of Range Forest Officers even if his claim is accepted and as such impleadment of all the 15 persons as party to this special civil application was uncalled for. At the most, junior person could have been joined as party though I am of the considered opinion that in the case of grievance of the officer that he is superseded in the promotion none of the promotees is required to be impleaded as party. Ultimately in case this Court finds that the supersession of the petitioner is illegal or arbitrary then it is for the respondent to give him the promotion either by getting the post vacant for him or by creating the post. Be that as it may, on this point nothing more is required to be gone into.

5. It is not in dispute that the case of the petitioner has been considered for promotion to the post of Range Forest Officer but he has been superseded. The criteria for promotion to the post of Range Forest Officer as per the case of the petitioner is proved merit and efficiency. The petitioner has admitted in the special civil application that there were adverse remarks in his Annual Appraisal Performance Report of the year 1977-78. So in a case where the criteria for promotion is proved merit and efficiency, in the presence of the aforesaid adversity in the service record of the petitioner, his supersession in promotion cannot be said to be illegal or arbitrary. The petitioner has only a right of consideration for promotion, which right has not been denied. In case on the basis of adversity in service record he could not stand to competitive merits then fault lies with him and not elsewhere.

6. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.
